

IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

DAVID STEBBINS

APPELLANT

VS.

CASE NO. 12-35082

MICROSOFT, INC.

APPELLEE

**MOTION TO NOT SCHEDULE ORAL ARGUMENT OR IN THE ALTERNATIVE  
FOR LEAVE TO PARTICIPATE IN ORAL ARGUMENT BY TELEPHONE  
OR IN THE ALTERNATIVE FOR APPOINTMENT OF COUNSEL**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following motion for leave to participate in any oral arguments the Court may schedule in the above-mentioned action by telephone.

As this Court is aware from the *in forma pauperis* application submitted in the District Court, I am extremely indigent. My current felony charges also deplete what few resources I have.

The *in forma pauperis* statute, codified as 28 U.S.C. § 1915, was passed out of a Congressional finding that cost should not be a bar to access to the Courts.

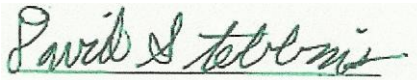
As if my indigency were not enough, my current felony charges require me to remain in the jurisdiction of the Court trying the case. This was a condition of bailing out of jail. I could not have anticipated these felony charges when I commenced this action in the District Court; as such, it should not be held against me.

For all of these reasons, I request that, in the event that the Court orders oral argument, that I be allowed to participate in the oral argument by telephone. If the Court will not do it for me, at least do it out of respect for the Court presiding over my felony charge, who is wholly within its authority to order me to stay within its jurisdiction for the duration of the case, even if I am innocent of the charge.

In the alternative, I ask the Court to appoint counsel to appear and make the arguments for me, since I am literally not allowed to leave this county, even if I could afford it, I therefore am physically unable to represent myself in an oral argument where I must appear in person.

Both of these reliefs, of course, rest on the assumption that an oral argument is scheduled. Pursuant to FRAP 34(a)(2)(C), I believe that the case has been sufficiently argued in the briefings, and that an oral argument is not necessary. It is this relief that I believe the Court should consider first and foremost.

Wherefore, premises considered, I respectfully request that at least one of these reliefs be granted.



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**CERTIFICATE OF SERVICE**

Defense counsel has been served with this document by allowing them to view it on ECF.

A handwritten signature in black ink that reads "David S Stebbins". The signature is written in a cursive style with a horizontal line underneath.

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